

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

NEHEMIAH CHI CHANG

v.

ROBERT STRAYER, et al.

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Civil Action No. DKC 09-1898

MEMORANDUM OPINION

As noted in the earlier order to show cause, this case was removed on July 20, 2009, from the Circuit Court for Montgomery County by Defendants, Robert V. Strayer, Jr. and Noor Halal Meat Distributors, Inc., invoking this court's diversity jurisdiction. The complaint also names Geico Insurance Company as a defendant. Geico filed an Answer in the Circuit Court on or about May 5, 2009, and did not exercise its right to remove at the time.

After this action was removed, the court issued an order directing the parties to file a status report concerning the positions of the various parties. Both Plaintiff and Defendant Geico take no position with respect to the petition for removal. Defendants Robert V. Strayer, Jr. and Noor Halal Meat Distributors, Inc. request the court grant their petition for removal and in support suggest that Defendant Geico is a nominal defendant and the parties agreed that Geico would be dismissed from the lawsuit (paper 16, Exhibit B). However, no party has moved to dismiss Defendant Geico to date.

Although there was a procedural defect in the removal of this case,¹ Plaintiff has not filed a motion to remand within thirty days of removal, thus waiving the defect. *See, In re Shell Oil Co.*, 932 F.2d 1518, 1523 (4th Cir. 1991). The case is at issue and a separate scheduling order will be issued.

/s/
DEBORAH K. CHASANOW
United States District Judge

¹ *See, Guyon v. Basso*, 403 F.Supp.2d 502 (E.D.Va. 2005).